

## ***DETAILED ACTION***

### **I. Action Summary**

Receipt of the remarks and amendments filed on 09/25/2009 is acknowledged. The amendments to the claims have been entered. After the examiner's amendment below claims 27 and 32-41 are now in condition for allowance. Claims 27, 32-37 and 40-41 are directed to an allowable product. Pursuant to the procedures set forth in MPEP § 821.04(B), claims 38 and 39, directed to the process of making or using an allowable product, previously withdrawn from consideration as a result of a restriction requirement, are hereby rejoined and fully examined for patentability under 37 CFR 1.104.

Because all claims previously withdrawn from consideration under 37 CFR 1.142 have been rejoined, **the restriction requirement as set forth in the Office action mailed on 11/12/2008 is hereby withdrawn.** In view of the withdrawal of the restriction requirement as to the rejoined inventions, applicant(s) are advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once the restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

### **II. Examiner's Amendment**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a phone conversation with Mr. Richard Billups on October 5, 2009.

The application has been amended as follows:

In claim 27, page 3, line 15, in the definition of each  $R^3$ , after "-OH" please **DELETE** [or an oxo group] and replace with ---and oxo--.

In claim 32, first line, before "formula" please **DELETE** [a].

In claim 34, line 3, please **DELETE** [as the atom constituting the hetero ring].

In claim 34, line 4, please **DELETE** [as other hetero atoms].

In claim 34, line 4, after "1 or 2" please **ADD** --- additional---.

### **III. Reasons for Allowance**

The following is an examiner's statement of reasons for allowance:

The rejections sent in the Final Office Action have been withdrawn because of applicant's amendments and arguments.

The closest prior art is US Patent 7,064,215 B2 which was cited in the first Office action. Other prior art of interest is DE 1237731, included in the notice of references cited. Applicants have amended the claims and the prior art does not read on the amended claims. The products and methods as described in the instantly claimed

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invention are not obvious and are not anticipated by prior art. Therefore, claims 27 and 32-41 are allowable.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

#### **IV. Telephone Inquiry**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to VALERIE RODRIGUEZ-GARCIA whose telephone number is (571)270-5865. The examiner can normally be reached on Monday-Friday, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph K. McKane can be reached on 571-272-0699. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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/Kamal A Saeed/  
Primary Examiner, Art Unit 1626

/V. R. G./  
Examiner, Art Unit 1626